

42.63 EXHIBIT IV

DSL-1081 – EMPLOYMENT-BASED IMMIGRANT VISA REQUIREMENTS



EMPLOYMENT-BASED IMMIGRANT VISA REQUIREMENTS

All intending immigrants who plan to base their immigrant visa application on employment in the United States must obtain an approved immigrant visa petition from the U.S. Immigration and Naturalization Service. The Immigration and Nationality Act provides a yearly minimum of 140,000 employment-based immigrant visas which are divided into five preference groups. They are:

1. Priority Workers, Employment First Preference, receive 28.6 percent of the yearly worldwide limit. All Priority Workers must be the beneficiary of an approved Form I-140, Petition for Prospective Immigrant Employee. Within this preference there are three sub-groups:

a. Persons of extraordinary ability in the sciences, arts, education, business or athletics. Applicants in this category must have extensive documentation showing sustained national or international acclaim and recognition in the field of expertise. Such applicants do not have to have a specific job offer so long as they are entering the U.S. to continue work in the field in which they have extraordinary ability. Such applicants can file their own petition with the INS, rather than through an employer.

b. Outstanding professors and researchers with at least three years experience in teaching or research, who are recognized internationally. No labor certification is required for this classification, but the prospective employer must provide a job offer and file a petition with the INS.

c. Certain executives and managers who have been employed at least one of the three preceding years by the overseas affiliate, parent, subsidiary or branch of the U.S. employer. The applicant must be coming to the U.S. to work in a managerial or executive capacity. No labor certification is required for this classification, but the prospective employer must provide a job offer and file a petition with the INS.

2. Professionals Holding Advanced Degrees, or Persons of Exceptional Ability in the Arts Sciences or Business, Employment Second Preference, receive 28.6 percent of the yearly worldwide limit, plus any unused Employment 1st Preference visas. All 2nd preference applicants require an approved I-140 Visa Petition. There are two sub-groups within this preference category:

a. Professionals holding an advanced degree (beyond a baccalaureate degree), or a baccalaureate degree and at least five years progressive experience in the profession.

b. Persons with exceptional ability in the arts, sciences, or business. Exceptional ability refers to persons who have a degree of expertise significantly above that ordinarily encountered within their field.

All such applicants must have a Labor Certification approved by the U.S. Department of Labor, or Schedule A designation, or establish that they qualify for one of the shortage occupations in the Labor Market Information Pilot Program. A job offer is required and the U.S. employer must file a petition on behalf of the applicant. Aliens may apply for exemption from the job offer and labor certification if the exemption would be in the national interest, in which case the alien may file the petition, along with evidence of the national interest.

3. Skilled Workers, Professionals Holding Baccalaureate Degrees and Other Workers, Employment Third Preference, receive 28.6 percent of the yearly worldwide limit, plus any unused Employment 1st and 2nd Preference visas. All 3rd preference applicants require an approved I-140 Visa Petition filed by the prospective employer. All such workers require a Labor Certification, or Schedule A designation, or evidence that they qualify for one of the shortage occupations in the Labor Market Information Pilot Program. There are three sub-groups within this preference category:

a. Skilled workers are persons capable of performing a job requiring at least two years' training or experience.

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- b. Professional with a baccalaureate degree.
- c. Other workers are those persons capable of filling positions requiring less than two years' training or experience. The number of visas available in this sub-category is limited to no more than 10,000 per year worldwide.
- 4. **Special Immigrants, Employment Fourth Preference**, receive 7.1 percent of the yearly worldwide limit. All such applicants, must be the beneficiary of an approved I-360 visa petition, except overseas employees of the U.S. Government who must have a form DS-1884 petition. There are six sub-groups in this category:
 - a. Religious workers coming to carry on the vocation of a minister of religion, or to work in a professional capacity in a religious vocation, or to work for a tax-exempt organization affiliated with a religious denomination (Limited to 5,000 per year for non-Ministers);
 - b. Certain overseas employees of the U.S. Government;
 - c. Former employees of the Panama Canal Company;
 - d. Retired employees of international organizations;
 - e. Certain dependents of international organization employees.
 - f. Certain members of the U.S. Armed Forces. (Separate numerical provisions apply)

5. **Employment Creation Investors, Employment Fifth Preference**, receive 7.1 percent of the yearly worldwide limit. All applicants must file a form I-526 Immigrant Petition by Alien Entrepreneur, with the INS.

To qualify, an alien must invest between U.S. \$500,000 and \$1,000,000, depending on the employment rate in the geographical area, in a commercial enterprise in the United States which creates at least 10 new full-time jobs for U.S. citizens, permanent resident aliens, or other lawful immigrants, not including the investor and his or her family. Further information may be obtained from the Immigration and Naturalization Service.

LABOR CERTIFICATION

A person whose occupation requires a labor certification must have prearranged employment in the United States.

INDIVIDUAL LABOR CERTIFICATION. The applicant must complete form ETA-750B, Statement of Qualifications of Alien, and send this completed form to the prospective employer who completes form ETA-750A, Application for Alien Employment Certification, Offer of Employment. The prospective employer submits both forms to the local office of the State Employment Service in the area in the United States where the work will be performed. The employer will then be notified by the appropriate regional office of the U.S. Department of Labor of its approval or disapproval. If a labor certification is granted, the employer may then file a form I-140, Petition for Prospective Immigrant Employee, with the Immigration and Naturalization Service for the appropriate employment-based preference category.

SCHEDULE A DESIGNATION. The Department of Labor has made a schedule of occupations for which it delegates authority to the Immigration and Naturalization Service to approve labor certifications. Schedule A, Group I, includes physical therapists and nurses. Schedule A, Group II includes aliens of exceptional ability in the sciences and arts (except performing arts). To apply for Schedule A designation, the employer must submit a fully executed uncertified Form ETA-750 in duplicate to the Immigration and Naturalization Service along with the I-140 petition.

LABOR MARKET INFORMATION PILOT PROGRAM. The Immigration Act of 1990 provides for the U.S. Department of Labor to establish a Labor Market Information Pilot Program which will define up to 10 occupational classifications in which there are labor shortages. For aliens within a listed shortage occupation, a labor certification will be deemed to have been issued for purposes of an employment-based immigrant petition. The Immigration and Naturalization Service will provide further information when the program is in effect.

